

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

**NEW HORIZON HOME CARE, LLC,
GUIDING LIGHT HOSPICE, INC.,**

Plaintiffs,

Case No. 3:19-cv-00521-RCJ-WGC

VS.

ORDER

GUIDING LIGHT HOSPICE, INC., et al.

Defendants.

15 This Court previously dismissed this case without prejudice with leave to amend under
16 Fed. R. Civ. P. 12. (ECF No. 123.) Plaintiff filed an amended complaint. (ECF No. 124.)
17 Defendants have filed new motions to dismiss under Rule 12, which are still pending but have not
18 filed answers or motions for summary judgment. (ECF Nos. 128, 130, 150.) Plaintiff then filed a
19 motion for voluntary dismissal under Fed. R. Civ. P. 41(a)(2), which allows for dismissal “on
20 terms that the court considers proper.” Defendants oppose this motion. A plaintiff, however, has a
21 right to dismiss a case voluntarily, where an answer or motion for summary judgment have not
22 been filed. Fed. R. Civ. P. 41(a)(1); *see Swedberg v. Marotzke*, 339 F.3d 1139, 1146 (9th Cir.
23 2003) (noting that a Rule 12 motion does not constitute an answer or a motion for summary
24 judgment). The Court therefore construes the motion as a notice of dismissal under Rule 41(a)(1).

CONCLUSION

IT IS HEREBY ORDERED that the case is Dismissed with Prejudice and all pending motions are denied as moot.

IT IS FURTHER ORDERED that the Clerk shall close this case.

IT IS SO ORDERED.

Dated February 24, 2021.

ROBERT C. JONES
United States District Judge